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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,558	05/27/2005	Hans-Peter Fleischmann	PNL21447	9243
77176 7590 04/06/2009 Novak, Druce & Quigg LLP 1300 I Street, N.W. Suite 1000, West Tower WASHINGTON, DC 20005				
EXAMINER				
IRVIN, THOMAS W				
ART UNIT		PAPER NUMBER		
3657				
MAIL DATE		DELIVERY MODE		
04/06/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/536,558

Applicant(s)

FLEISCHMANN, HANS-PETER

Examiner

THOMAS W. IRVIN

Art Unit

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 January 2009 has been entered.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the device including at least two conduits must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "64" has been used to designate both a drive shaft and a driven shaft. The examiner additionally notes that hollow shaft (18) appears to be the "drive shaft", and that shafts (64, 66) appear to be the "driven shafts". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 22 is objected to because of the following informalities: the "-" should be deleted in line 3, and the wording of lines 3 and 4 should be grammatically changed.

Claim 24 is objected to because -- an -- should be added between "adjacent" and "inner".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 22-30 fail to specifically define what applicant is claiming in a way such that it is clearly understood what limitations are a part of applicant's invention. The examiner suggests applicant reword the claims to begin with "A transmission comprising:" followed by the subject matter applicant wishes to claim. As they stand now, the claims appear to only claim a device comprising at least one conduit. In order to further prosecute the application, the claims will be defined as best understood by the examiner.

Claim 22 recites the limitation "said hollow drive shaft" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 23 recites "wherein said conduit is disposed within a bearing". This claim appears to be incorrect, as figure 1 shows that the conduit (114) is not disposed within bearing (46), but rather, radially closer to the axis of the driven shaft than the bearing.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by anticipated by Hattori (4,881,925).

In Re claims 22 and 30, with reference to figs. 2 and 3, Hattori discloses a transmission (CVT) including a housing (2); bearings (not labeled); a differential gear (G2) disposed with a case, housing (2), having a longitudinally disposed passageway (not labeled, see passageways in housing wall in upper right); a pair of axially aligned driven shafts (55,56) disposed coaxially with said bearings (not labeled) with end thereof drivingly connected to said differential gear; a hollow shaft (14) receiving one of said driven shafts therein, provided with a fixed pulley (33) and an axially moveable pulley (34), a guide member (38) affixed to said hollow drive shaft, journaled in a bearing (see fig. 2), drivingly connected to said differential gear, provided with means including an expandable chamber (37); a device comprising at least one conduit

(65,63,59,57) inserted in an opening in said drive shaft and guide member and said differential gear case, intercommunicating said passageways.

In Re claim 23, the conduits are disposed radially within a bearing (not labeled).

In re claim 24, the inner race of the bearing is mounted on a segment, lower portion of stationary pulley half (33), and an end of said conduits is inserted into an opening in said segment.

In Re claim 25, the conduit is provided with a radially projecting portion, see the radially extending attachment to the housing.

In Re claim 26, the conduit has annular seals.

In Re claim 27, the conduits include 2 opposed facing passageways (59).

In Re claim 28, the drive shaft has a spline connection with a pulley, which transmits torque to the differential gear through the CVT.

Response to Arguments

Applicant's arguments filed 28 January 2009 have been fully considered but they are not persuasive.

In Response to applicant's arguments that Hattori does not show a passageway, the examiner points to figures 2 and 3, near the pulley sheaves (33,34) which depict many conduits for the communication of fluid to the expandable chamber (37). The examiner understands the lower portion of the transmission housing (2), shown in fig. 2, to be the casing for the differential gear (G2) as no specific details of the differential or differential gear are defined in the rejected claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS W. IRVIN whose telephone number is (571)270-3095. The examiner can normally be reached on Mon-Fri 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas W. Irvin/
Examiner, Art Unit 3657

/Robert A. Siconolfi/
Supervisory Patent Examiner, Art
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